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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,104	12/19/2001	Paul D. Hemstreet	6156-2	4990

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/025,104

Applicant(s)

PAUL D. HEMSTREET ET AL.

Examiner

Yvonne M. Horton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 09 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1,3-5 and 10-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 24-29 is/are allowed.
- 6) ☐ Claim(s) 1,3-5 and 10-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The amendment filed 12/9/03 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: there is no support in the specification for the shutter blades providing access to the facing openings "between at least two of the shutter blades" because pages 9 and 10 of the specification detail that depressions/openings (42) are formed in the rear surface of the blades and not "between" adjacent blades". Thus, the access is being provided "along the back surface" and not "between" adjacent panels. Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Objections

Claims 1, 10 and 23 are objected to because of the following informalities:

Claims 1 and 10 recite the limitation "the two lateral frame members", respectively, in lines 5. There is insufficient antecedent basis for this limitation in these claims. Although the claim introduces "two opposing elongated frame members", there is no mention of "lateral frame members". In order to avoid confusion, similar elements of the claimed invention must be referenced identically. If the introduces "two opposing elongated frame members" are the same element as the "lateral frame members", the

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applicant must reference them identically. If the "lateral frame members" are a different element of the invention than the "two opposing elongated frame members", the "lateral frame members" must be first prefaced by --a--. Appropriate correction is required.

Regarding claim 23, the phrase "can be" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 16-22 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,426,893 to HOFFMAN. HOFFMAN discloses the use of a shutter blade assembly including a first (11) and an adjacent blade (11) each having a blade body (18) having at least one side flange (15,16) extending at an angle therefrom; wherein the side flanges (15,16) engage a shutter frame (12,13) and positions the blade body (18) at an angle thereto. The shutter blade assembly of HOFFMAN also includes a connecting flange (17) and (23,24) extending at an angle from the blade body (18); wherein the connecting flange (17) and (23,24) indirectly connect the blade body (18). Regarding claim 17, the connecting flange (17) is permanently connected to the blade body (18) of the adjacent blade (11) by screws (50). In reference to claims 18 and 19, the assembly of HOFFMAN further includes a third shutter blade (11), see figures 3 and 6; wherein the third blade (11) also includes a blade body (18), and angled side flange (15,16) and a connecting flange (17) and (23,24) such that the connecting flange (17) is

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also permanently attached to an adjacent blade (11) by screws (50). Regarding claim 20, due to the fact that the blades are secured by screws (50), screws (50) allow for either permanent or removable connection of the connection flanges (17) and (23,24) to adjacent blades (11). In reference to claim 21, the connecting flange (17) includes a tongue (20) and a groove (25). Regarding claim 22, each blade (11) further includes a second side flange (15,16) wherein the side flanges (15,16) are parallel.

Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,957,186 to BOSWELL. BOSWELL discloses the use of a shutter blade (20) including an elongated blade body (40) having a first blade body side (colored red) and a second blade body side (colored blue); at least one side flange (46) extending at an angle from the blade body (40) and having a first side flange side (colored yellow) and a second side flange side (colored orange) such that the first blade body side (colored red) and the first side flange side (colored yellow) forms an acute angle (48) whereby when mounted in a shutter frame (26,28,30,32) the blade body (40) is positioned at an angle; and a connecting flange (44) including a connecting structure (56) and also having a first connecting flange side (colored purple) and a second connecting flange side (colored green) such that the first connecting flange side (colored purple) forms an acute angle (A) with the first side flange side (colored red), see the marked attachment.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1,4,5 and 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,737,874 to SIPOS et al. in view of US Patent #6,543,188 to POMA et al. Regarding claims 1 and 10, POMA et al. discloses the use of an impact protection system including a shutter (1) having two opposing elongated frame members (6) with facing openings (OP) therein, see the marked attachment of figure 8; shutter blades (28) angled relative to the longitudinal axis of the frame members (6) and extending between the frame members (6) wherein the ends thereof are disposed within the facing openings (OP), see figure 8 such that the blades (28) provide a louvered appearance (LA) on one side and an access opening (AO) on the opposing rear side, see the marked attachment of figure 2, for insertion of bracing clips (18). SIPOS et al. Discloses the basic claimed shutter except for the use of a hinge provided along one of the frame members to allow the shutter to pivot from an opened position against the wall and a closed position over the window opening. Although SILOS et al. does not disclose the exact positioning of the hinge, he does disclose the use of a hinge (35) positioned on the header of his shutter (1). Hinges are old and very well known for their use with shutter devices. POMA et al. teaches that it is known in the art to provide a shutter assembly (50) with hinges (51) along the frame members (54) to allow the shutter (50) to pivot from an opened position against the wall and a closed position over the window opening. Hence, it would have been obvious to one

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having ordinary skill in the art to form the shutter of SILOS et al. with hinges along the opposing side members in order to allow the shutter to pivot from an opened position against the wall and a closed position over the window opening, as taught by POMA et al. The mere arranging of essential working parts of an invention involves only routine skill in the art. To place the hinges of SILOS et al. along the side frame members would also have been an obvious matter of design choice. The position of the hinges would depend upon the desired amount of access to the window needed or required. If full access of the window is needed, without the worry of the shutter falling upon the user, one skilled in the art would place the hinge on the sides of the shutter. Whereas, if the fact that additional means might be needed to hold the shutter in an open position is not a factor, one skilled in the art might place the hinges at the header. Regarding claim 4, although SILOS et al. only discloses the use of one shutter, it would have been well within the general skill of a worker in the art to provide the assembly with an additional shutter especially for much larger windows and also to provide the window assembly with versatility in that one shutter can be closed to partially block the window opening while the other shutter can remain open. In reference to claims 5 and 11, the openings (OP) are defined by a u-shaped member (6) having two outer side walls (9) connected by a terminal wall (8) and inner side walls (24); wherein the blades (28) have end flanges (29) that engage the inner side walls (24). Regarding claim 12, the shutter (1) of SILOS et al. further includes a connection flange (31) for interconnecting adjacent blades (28), column 8, lines 44-45. In reference to claim 13, as shown in figure 2, the connection flanges (31) can be removably connected to the adjacent blade, the blade

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that is colored red in the marked attachment. Regarding claim 14, the connection flange (31) and the adjacent blade (28) are joined by a tongue being the connection flange (31) and a groove formed between the connection flange (31) and the fastening screw (76), see figure 2. In reference to claim 15, the connection flange (31) is formed with a series of blades (28), see also figure 2.

Allowable Subject Matter

Claims 24-29 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach the use of hinged shutters having opposed frame members with openings that receive angled shutter blades therein in combination with a storm bar, clip and wall mount; wherein the clip is inserted into the openings formed in the frame members along with the shutter blades.

Response to Arguments

Applicant's arguments with respect to claims 1,3-5 and 10-23 have been considered but are moot in view of the new ground(s) of rejection.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703) 308-0839. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YMH 
Primary Examiner
February 21, 2004